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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON, AT EUGENE

**LINDLEY CONTOURS, LLC, AND
NORMAN LINDLEY,**

Plaintiffs,

vs.

**AABB FITNESS HOLDINGS, INC., f/k/a
CONTOURS EXPRESS, INC.,
CONTOURS EXPRESS, LLC, THOMAS
D. CHRISTOPOUL, WILLIAM G.
HELTON, JR., PAUL M. MCNICOL,
ANDREW RUSSELL, MAYO S. STUNTZ,
JR., DAREN CARTER, MICHAEL
WIDENER, CLINTON C. COOPER,
MARY SCHRAD, PILOT GROUP LLC,
PILOT GROUP L.P., AND PGCE, INC.**

Defendants.

Case No:6:08-CV-6408-TC

**DEFENDANTS' MOTION TO DISMISS
FOR ARBITRATION OR, IN THE
ALTERNATIVE, MOTION TO DISMISS
CERTAIN DEFENDANTS FOR LACK OF
PERSONAL JURISDICTION**

REQUEST FOR ORAL ARGUMENT

Counsel for Defendants certifies, pursuant to L.R. 7.1(a), that the parties made a good faith effort through telephone conference to resolve their disputes, but have been unable to do so.

Defendants AABB Fitness Holdings, Inc. f/k/a Contours Express, Inc., Contours Express, LLC, Thomas D. Christopoul, William G. Helton, Jr., Paul M. McNicol, Andrew Russell, Mayo S. Stuntz, Jr., Daren Carter, Michael Widener, Clinton C. Cooper, Mary Schrad, Pilot Group LLC, Pilot Group L.P. and PGCE, Inc. (collectively, "Defendants"), move the Court to dismiss this case. The parties agreed that "disputes arising under or in connection with this [Franchise] Agreement that cannot be amicably settled, shall be determined solely and exclusively by binding arbitration under the auspices of the American Arbitration Association." Plaintiffs should be required to abide by their contractual obligation and seek redress of their complaints in arbitration, not this Court. Because there are no claims which can be brought in this Court, plaintiffs' Complaint should be dismissed without prejudice.

In the alternative, if the Court does not dismiss the case in its entirety so the parties may arbitrate their dispute, then the Court should dismiss defendants Thomas D. Christopoul, William G. Helton, Jr., Paul M. McNicol, Andrew Russell, Mayo S. Stuntz, Jr., Daren Carter, Michael Widener, Clinton C. Cooper, Mary Schrad, Pilot Group LLC, Pilot Group L.P. and PGCE, Inc. because they do not have sufficient minimum contacts with Oregon to satisfy Oregon's Long-Arm statute or due process.

In support of this Motion, Defendants submit contemporaneously their Memorandum of Law in Support, the Declaration of John F. McGrory, Jr., and the Affidavits of Thomas Christopoul, Mary Schrad, Clinton Cooper, Michael Widener, William Helton, Daren Carter, Andrew Russell, Mayo S. Stuntz, Jr., and Paul McNicol.

Dated this 16th day of January, 2009.

DAVIS WRIGHT TREMAINE LLP

By /s/ John F. McGrory, Jr. _____

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